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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,604	08/10/2001	Chih-Hsiang Chen	5083-009	6528

7590 02/13/2003

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EXAMINER

TOLEDO, FERNANDO L

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

09/927,604

Applicant(s)

CHEN ET AL.

Examiner

Fernando Toledo

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 3, 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1, 2 – 6, 8 – 13, 15 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Jung et al. (U. S. patent 6,335,279 B2).

In re claims 1, 6, 12, 15 and 16 Jung in the U. S. patent 6,335,279 B2; figures 1A – 3M and related text discloses forming at least two adjacent stacks 118a and 118b over the substrate 100, the adjacent stacks having a sidewall opposing each other, wherein each of the gate stacks includes a conductive layer 116 and a capping nitride layer 120 overlying the conductive layer; selectively depositing a liner 140 over the gate

stacks, so that the liner is thicker on the conductive layer than on the capping nitride layer; and forming adjacent at least two nitride spacers 142 on the liner, overlying the opposing sidewalls (Figure 3M).

In re claims 2 and 8, Jung discloses wherein the forming of the nitride spacer includes: forming a layer of nitride spacer material conformally over the liner; and etching back the layer of nitride spacer material (Figure 3M).

In re claims 5 and 10, Jung teaches wherein the liner is formed of oxide (column 7).

In re claims 9 and 17, Jung teaches wherein the adjacent nitride spacers have top, middle, and bottom spaces therebetween, and wherein the bottom space is substantially shorter than the middle space (Figure 3M).

In re claims 11 and 13, Jung teaches further including a pre-metal dielectric layer 138 overlaying the gate stacks, capping layer and nitride spacers.

In re claim 18, Jung teaches wherein the top space is wider than the middle space (Figure 3M).

In re claim 19, Jung teaches wherein the gate stacks and closely spaced to provide a gap between them, and the gate stacks, liner and sidewall spacers are covered by PMD layer, a portion of the PMD layer filling the gap (Figure 3K).

In re claim 20, Jung teaches wherein the portion of PMD layer filling the gap being free of voids (Figure 3K).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jung.

Jung does not explicitly disclose a contact plug formed within the PMD layer adjacent the gate stack.

However, Jung discloses forming a contact hole that is self aligned between the gate stacks (column 9). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form contact plugs in the contact holes formed by Jung since the plugs are required for the functionality of a CMOS device.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fernando Toledo whose telephone number is 703-305-0567. The examiner can normally be reached on Mon-Fri 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 703-306-2794. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-308-7382 for regular communications and 703-308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Fernando Toledo
Examiner
Art Unit 2823

ft
February 2, 2003


Olrik Chaudhuri
Supervisory Patent Examiner
Technology Center 2800